



## **MINUTES OF THE MEETING OF THE MEDICAL SERVICES BOARD**

The Capitol Center  
303 East 17th Avenue, 7th Floor Conference Room

March 13, 2015

### **1. Call to Order**

Vice-President LaCombe called the meeting to order at 9:10 a.m.

### **2. Roll Call**

The Board Coordinator called the roll. There were sufficient members for a quorum, with eight members participating, two members excused, and one vacant position.

#### **A. Members Present**

Christy Blakely, Bregitta Hughes, Brenda LaCombe, Paul Melinkovich, Amanda Moorer, Ginny Riley, Donna Roberts, and Mary Trujillo-Young.

#### **B. Members Excused**

Patricia Givens and Mike Stahl

#### **C. Staff Present**

Susan E. Birch, Executive Director; Gretchen Hammer, Deputy Executive Director/Health Programs Office Director; Jennifer Weaver, First Assistant Attorney General; Judi Carey, MSB Coordinator; and Dan Hutchinson, Staff Support

### **3. Announcements**

Ms. LaCombe announced that the next Medical Services Board Meeting will be held in the 7th floor conference room at 303 East 17th Avenue in Denver on Friday, April 10th at 9:00 a.m.

It is the policy of this Board and the Department to remind everyone in attendance that this facility is private property. The capacity of the meeting room is 80. Please do not





block the doors or stand around the edges of the room. Please turn cell phones off while in the meeting room, as they interfere with the recording equipment.

#### **4. Approval of Minutes**

Dr. Melinkovich moved for the approval of the February minutes. The motion was seconded by Ms. Blakely. There were no comments and the minutes were approved as submitted, 8:0.

- Legislative Update – Zach Lynkiewicz, Legislative Liaison

#### **5. Rules**

Ms. Riley made a motion that all emergency rules that are adopted at this meeting include a finding that their immediate adoption is imperatively necessary to comply with State or Federal law or Federal Regulation or for the preservation of public health, safety or welfare and that compliance with CRS § 24-4-103 would be contrary to the public interest. The motion was seconded by Ms. Roberts and approved, 8:0.

##### **A. EMERGENCY ADOPTION AGENDA**

###### **1) Document 01 MSB 15-02-06-A**

Revision to the Medical Assistance Eligibility Rules Concerning Parents and Caretaker Relatives, Section 8.100.4.G.3

Ms. Blakely moved for the emergency adoption of Document 01. The motion was seconded by Dr. Melinkovich. Marivel Guadarrama, Health Programs Office Eligibility Policy Section, and Shane Mofford, Budget Division, presented the proposed rule and explained that it changes the MAGI Parent/Caretaker Relatives income eligibility to 60% of the Federal Poverty Level (FPL) to align and comply with the Affordable Care Act (ACA.)

###### Board Discussion

Board discussion and questions included: that this change only affects the parent or caretaker relative, not the child; that this rule is effective April 1<sup>st</sup> but, in order to comply with notification requirements, benefits will not end until April 30<sup>th</sup>; that if someone is being discontinued for one category, the eligibility system will automatically search for other categories for which they may be eligible; that if a client is determined ineligible for all Medicaid categories, Department staff will reach out to them individually and direct them to Connect for Health Colorado; that an escalation process is in place to directly address individuals affected by this; and that, for the large majority of clients, the process to move them to a new category will be automatic.





### Public Testimony

There was no public testimony on Document 01.

The Board voted for the emergency adoption of Document 01, 8:0.

## **B. FINAL PERMANENT ADOPTION BY CONSENT AGENDA**

### 1) Document 02 MSB 14-04-15-A

Revision to the Medical Assistance Rule Concerning Long Term Care, Sections 8.400-8.499 (Jason Takaki and Micah Jones, Long-Term Services and Supports Division);

### 2) Document 03 MSB 14-12-03-A

Revision to the Medical Assistance Eligibility Determination Rule Concerning the Medicaid Buy-In Program for Working Adults with Disabilities and the Medicaid Buy-In Program for Children with Disabilities, Section 8.100.6.P and Section 8.100.6.Q. (Chris Underwood and Beverly Hirsekorn, Health Information Office Eligibility Determination Division); and

### 3) Document 04 MSB 14-10-02-A

Revision to the Medical Assistance Delivery System and Payment Innovation Program Rule Concerning Emergency Transportation Services, Section 8.018, (Greg Trollan, Health Programs Office Delivery System and Payment Innovation Division)

Dr. Melinkovich moved for the final permanent adoption by consent of Documents 02, 03 and 04. The motion was seconded by Ms. Roberts.

### Board Discussion

There was no board discussion on Documents 02, 03, and 04.

### Public Testimony

There was no public testimony on Documents 02, 03, and 04

The Board voted for the final permanent adoption by consent of Documents 02, 03 and 04, 8:0.

## **C. FINAL PERMANENT ADOPTION AGENDA**

### 1) Document 05 MSB 14-11-19-A-

Revision to the Medical Assistance Health Programs Provider Relations and Dental Program Rule Concerning Adult Dental Services, Section 8.201





Ms. Blakely moved for the final permanent adoption of Document 05. The motion was seconded by Ms. Roberts. Bill Heller and Sarah Tilleman, Health Programs Office Provider Relations and Dental Program Division, and Frank Herbst, Health Programs Operations Section, presented the proposed rule and explained that it defines amount, scope and duration of the benefit and is designed to increase access for adults and reduce the burden on providers. Department staff also responded to the questions that were raised in February.

#### Board Discussion

Board discussion and questions included appreciation of the feedback from the meeting last month.

#### Public Testimony

Marilyn Ketcham, Colorado Dental Association

Public testimony included: appreciation for the work completed on this rule; that co-location is not something coming in the future, it is here now and needs to be addressed; that there are differences between the adult dental program and the children's; that the Early and Periodic Screening, Diagnosis and Testing requirement covers some services for children; that this is a limited benefit and it is important to not spend the entire \$1000 cap in the first year on exams and x-rays leaving nothing left for treatment; and that there was agreement that this rule should be passed now with the expectation that the Department will continue to work on outstanding issues.

The Board voted for the final permanent adoption of Document 05, 8:0.

#### 2) Document 06 MSB 14-09-09-A-

Revision to the Medical Assistance Community Living Rule Concerning Colorado Choice Transitions (CCT), a Money Follows the Person Demonstration, Section 8.555

Ms. Riley moved for the final permanent adoption of Document 06. The motion was seconded by Ms. Moorner. Nicole Storm and Tim Cortez, Long-Term Services and Supports Division, presented the proposed rule and explained that the revision aligns the rule with current processes and removes two services that are available as spa service and/or underutilized. An "R"-page<sup>1</sup> document was submitted for inclusion. Staff explained the work they had completed with stakeholders.

Ms. Roberts made a motion to include the "R" page. The motion was seconded by Ms. Moorner and approved, 8:0.

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<sup>1</sup> "R" pages are pages of the rule that contain revisions submitted to the Board for approval after the rule has been published or otherwise made available to the public.





## Board Discussion

There was no board discussion on Document 06.

## Public Testimony

Jerry Bates

Veronica Roberts

Cathy Stevens

Patricia Farrel

Kelsey Meredith, Disability Law Colorado

Tim Hudner

Julie Farrar, Colorado Developmental Disabilities Council

Linda Henry

Lynne Crooks

Veronica Roberts, Written

Patricia Jolitz, Written

Chester R. Chapman, Disability Law Colorado, Written

Jerry and Carol Bates, Written

Kelsey Meredith, Disability Law Colorado, Written

Public testimony included: that it is not the intent for the rule to trump the guardianship law; that rules cannot circumvent state statute; that a legal guardian can't force a ward to do anything against the ward's will; that it is important to get the language in the rule right; an explanation of how the guardianship law works; that approximately 95% of all clients who are transitioned through this program have no physical or mental disabilities and do not have a legal guardian; that the language is ambiguous and suggestions for a change in the language; that the rule language should be inclusive of all clients; that it is important for clients to be safe while not taking away anyone's rights; that based on Olmsted and the American's with Disabilities Act, an interpretation that this language is illegal; that this program provides clients an opportunity to be assessed, to determine if they can live in a less restrictive environment; that legal guardians should be involved in the assessment and the process; that some stakeholders didn't have the opportunity to be part of the process and would like a chance to help find a solution; that there are clients with a legal guardian who could be harmed by this process and need to be protected; that there should not be a misinterpretation of Olmsted, it is a choice, not mandatory; and that the Department would be amenable to tabling this rule to allow additional time to work with stakeholders.





Ms. Roberts made a motion to table the rule for three months. Ms. Blakely seconded the motion. The motion was approved, 8:0

#### **D. INITIAL APPROVAL AGENDA**

1) Document 07 MSB 15-02-11-A

Revision to the Health Programs Office Benefits and Operations Division Ambulatory Surgery Center (ASC) Rule Concerning a Technical Correction to the Amount, Scope and Duration of Services, Section 8.570

Dr. Melinkovich moved for the initial approval of Document 07. The motion was seconded by Ms. Riley. Ana Lucaci, Health Programs Benefits and Operations Specialty, Chronic and Hospital Unit, and Frank Herbst, Health Programs Operations Section, presented the proposed rule and explained that it is a technical correction to the current rule.

Board Discussion

There was no board discussion on Document 07.

Public Testimony

There was no public testimony on Document 07.

The Board voted for the initial approval of Document 07, 8:0

2) Document 08 MSB 14-02-12-A

Revision to Medical Assistance Long Term Services and Supports Rule Concerning Community Transition Services (CTS), Section 8.553.1

Ms. Roberts moved for the initial approval of Document 08. The motion was seconded by Ms. Riley. Nora Brahe and Tim Cortez, Long Term Services and Supports Community Options Grants Unit, presented the proposed rule and explained that it implements CTS as a demonstration service of the Colorado Choice Transition (CCT) program and expands eligibility to individuals with intellectual disabilities, brain injuries, and mental illness.

Board Discussion

Board discussion and questions included: that cost containment for the program is based on daily nursing facility average care costs; that the average daily amount for nursing facility care costs is about \$1500; that, therefore, cost containment measures should have a minimal effect on clients; that there are two care coordinator positions identified in the rule; that one position is a Transition Coordinator who works for a Transition Coordination Agency; that the Transition Coordination Agency is approved to provide Home and Community Based Services (HCBS) and Colorado Choice Transition services; that Transition Coordination





Agencies are not Single Entry Point Agencies (SEP); that there are Case Managers for those who use CTS through the HCBS EBD waiver provided by a SEP agency; and that those accessing the service through CCT are provided Intensive Case Management thorough a SEP.

Ms. Riley stated that she is the Director of a County Human Services Department that includes a SEP.

#### Public Testimony

Josh Winkler, ADAPT, Colorado Cross Disabilities Coalition

Public testimony included: that there are still a lot of barriers for persons with disabilities; that two years into the program, only 83 clients have been transitioned and it needs to be 500; that there is concern that this change will add the requirement that an individual must be in an institution for 90 days before they can receive this service; that the housing barrier is better, but is still not fixed; an explanation that the proposed rule change does not roll the CTS program into the CCT program; that CTS is a benefit of the HCBS/EBD waiver and a choice of the CCT; an explanation of the process a client goes through to access this program; that the only thing this revision does is expand eligibility; that as a demonstration, this is the time to discuss and problem solve issues that have been raised; that this takes time and is a long journey; and a request that this rule not be put on the consent agenda.

The Board voted for the initial approval of Document 08, 8:0

#### **E. Consent agenda**

Dr. Melinkovich moved to place Document 07 on the Final Permanent Adoption by Consent agenda. The motion was seconded by Ms. Riley and approved, 8:0.

#### **F. Closing motion**

Ms. Moorer moved to close the rules portion of the agenda. The motion was seconded by Ms. Roberts and approved, 8:0.

### **6. Open Forum for Public Comments**

Donna Sablan

Josh Winkler

Charlene Willey

### **7. Department Updates**

- HB 09-1293 Hospital Provider Fee Update – Written





- Child Health Plan *Plus* Quarterly Report - Written
- Department Updates/Questions – Susan E. Birch, MBA, BSN, RN Executive Director

## **8. Adjournment**

### **9.** The meeting was adjourned at 12:20 p.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, April 10, 2015 in the 7th floor conference room at 303 East 17th Avenue, Denver, CO.

Reasonable accommodations will be provided upon request for persons with disabilities.

Please notify the MSB Coordinator at [judith.carey@state.co.us](mailto:judith.carey@state.co.us) or by phone at 303-866-4416 or the 504/ADA Coordinator [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us) at least one week prior to the meeting.

